



## STATE BOARD OF LAND COMMISSIONERS

C. L. "Butch" Otter, Governor and President of the Board

Ben Ysursa, Secretary of State

Lawrence G. Wasden, Attorney General

Donna M. Jones, State Controller

Tom Luna, Superintendent of Public Instruction

George B. Bacon, Secretary to the Board

### DRAFT Final Minutes Regular Land Board Meeting September 20, 2007

The regular meeting of the Idaho State Board of Land Commissioners was held on Thursday, September 20, 2007 in Boise, Idaho. The meeting began at 9:05 a.m. in the second floor courtroom of the Borah Post Office building. The Honorable Governor C. L. "Butch" Otter presided. The following members were present:

Honorable Secretary of State Ben Ysursa

Honorable State Controller Donna Jones

Honorable Superintendent of Public Instruction Tom Luna – joined the meeting at 9:10 a.m.

Acting Secretary to the Board Deputy Director Kathy Opp

Attorney General Wasden and Secretary to the Board George Bacon were absent from this meeting.

#### • **CONSENT**

A motion was made by Controller Jones to approve the Consent Agenda in its entirety. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 4-0, with Attorney General Wasden being absent for this vote.

#### **1. Director's Report – approved**

- A. Interest Rate on Department Transactions – August 2007
- B. Timber Sale Official Transactions – July 27, 2007 through August 31, 2007
- C. Timber Sale Activity Report
- D. Legal Matter Summary
- E. Bureau of Surface and Mineral Resources, Official Transactions – July 2007
- F. Bureau of Real Estate, Official Transactions, Land Sale – July 2007
- G. Bureau of Real Estate, Official Transactions, Easement – July 2007
- H. Fire Settlement Information
- I. Fire Season Report

*DISCUSSION:* Deputy Director Opp explained that item H is a new item on fire settlement information. This report will now be a standard in the Department's transaction reporting.

Regarding item I, Deputy Director Opp stated this is an update on fire suppression responsibilities and activities. Since the end of August emergency fire expenditures to the State are \$27.6 million. With after reimbursable billings to other entities, the net at this point is \$22.4 million.

**2. Timber Sales – Staffed by Roger Jansson, Operations Chief-North, and Kurt Houston, Operations Chief-South – approved**

NORTH OPERATIONS

A. North Renfro	CR-30-0534	4,675	MBF	Benewah
B. Fifteen	CR-30-0540	4,765	MBF	Clearwater

SOUTH OPERATIONS

C. Faerber 40	CR-40-0798	1,340	MBF	Clearwater
D. Great Salt Lick	CR-43-4014	2,400	MBF	Idaho
E. Pyramid Olive	CR-50-0140	4,020	MBF	Washington
F. Woodland	CR-50-0141	3,179	MBF	Adams

*DISCUSSION:* Deputy Director Opp pointed out sale A. Due to blowdown and wind damage, the Department is asking for one-week advertising, which is a modification to the normal four-week advertisement period. Industry is aware of the advertising period and no problems are anticipated.

Governor Otter asked what venue the Department will use for the shortened advertising period. Deputy Director Opp stated the Department will use its normal method of advertising in the local and regional papers. In many instances Department staff will contact industries in the area directly about the shorter time period.

Governor Otter asked if the Department has investigated other more visible or more rapid contact methods for notification. Deputy Director Opp stated the Department is developing a web-based system wherein industry clients will be able to sign on to the system and get information about timber sales. They will also be able to sign up for alerts so that when the Department posts information on the web page, they would be notified. The Department anticipates bringing this new system forward within the next six months to further enhance customer service. Governor Otter stated he would appreciate the Department keeping the Board advised of the progress of the new web-based system.

**3. Application for Dredge/Placer Permit No. 328 (Melvin Toll) – Staffed by Eric Wilson, Bureau of Surface and Mineral Resources – approved**

*DEPARTMENT RECOMMENDATION:* Approve issuance of the permit subject to the plan submitted in the application, submission of the required \$4,500 bond and compliance with the Rules and Regulations Governing Dredge and Placer Mining Operations in Idaho.

*BOARD ACTION:* Approved.

**4. Fiscal Year 2009 Department of Lands Budget** – *Staffed by Jon Pope, Administrator, Support Services – approved*

*DEPARTMENT RECOMMENDATION:* Approve the Department FY09 budget proposal as submitted to the Division of Financial Management and the Legislative Services Office prior to September 4, 2007.

*BOARD ACTION:* Approved.

**5. Minutes – approved**

A. Regular Land Board Meeting – August 16, 2007

• **REGULAR**

**6. Program Overview – Insect and Disease Program (Forestry Assistance Bureau) –**  
*Presented by Jeff Fidgeon, Bureau of Forestry Assistance*

Governor Otter asked Mr. Fidgeon how many acres of federal lands are included in his presentation. Mr. Fidgeon stated the number varies from year to year. Governor Otter asked if he could provide a picture of the density. Mr. Fidgeon stated stands are being seen that are 150-160 square feet of basal area per acre or more.

Secretary of State Ysursa asked if anyone has observations on what happened this year with the intensity of the fires. Governor Otter asked if the Department could provide information at the next Board meeting discussing a possible nexus between insects, disease and fire.

Governor Otter asked about the Red Fish-Stanley slide presented by Mr. Fidgeon. He asked how much of the surrounding area would resemble the slide. Mr. Fidgeon stated the photo was taken in early spring last year. Significant mortality has occurred this year. A rough estimate would be 75%. Since the outbreak started in the Stanley Basin, and in other lodge pole stands in the state, over 10 million trees have been lost.

No action was taken on this agenda item.

**7. Endowment Fund Investment Board – *Presented by Larry Johnson, Manager of Investments***

- A. EFIB Manager's Report
- B. Investment Report

Mr. Johnson stated reserve balances are strong and there are no compliance issues. He noted that the EFIB's annual independent audit has been completed and there were no findings. **Members** of the EFIB will make a formal report to the Land Board in November. Mr. Johnson also reported that, on a fiscal year-to-date basis through September 19, 2007, the Fund earned **blue** approximately 3%.

No action was taken on this agenda item.

## **8. Asset Management Plan Update – Presented by Kathy Opp, Deputy Director**

*DEPARTMENT RECOMMENDATION:* Approve the asset management plan sections as presented.

*DISCUSSION:* Superintendent Luna stated regarding section 1-D, he would not strike the equal or exceeds four percent annually wording. He suggested that by removing the four percent annually wording the bar would be lowered. He believes it is important to measure against peers but that should not be the only form of measure used to determine performance. Secretary of State Ysursa asked Deputy Director Opp why the Department recommended removing the four percent wording. Ms. Opp stated she concurs with Superintendent Luna that it is important to bench against peers. However, she has some trepidation about putting a hard number in a document like this versus setting a different standard that can meet the test of time and then coming back to the Board with annual targets that are specific to the current market conditions.

Governor Otter commented sometimes in order to defend the entire asset we might have to conduct a harvest that would not yield four percent. He can see how, depending on circumstances, a hard number might be difficult to meet. He asked if there is some kind of accommodation that would acknowledge that the action had to be taken but the yield would not be four percent.

Superintendent Luna asked if there has been a year in the past ten years that this objective has not been met. Mr. Larry Johnson, Manager of Investments, Endowment Fund Investment Board, stated financial markets are volatile, and there have been years in which the fund did not earn a four percent real return. Looking back over history with the current asset mix, thirty percent of the time, one year out of three, a four percent real return was not earned. However, over the last five years returns have exceeded four percent real. Over the last seven years returns may be a little bit below, and over the last ten years probably above. Superintendent Luna stated it is not that excessive of a goal. A balanced portfolio should compensate for low timber prices. He is concerned about the whole idea of lowering the bar. Superintendent Luna moved that the Board not adopt the recommendation as outlined in I-D, Performance Objectives.

Governor Otter asked if net amounts go to the permanent endowment as shown under the distribution to beneficiaries and account funds. Deputy Director Opp stated that royalties associated with mineral extraction are deposited into the permanent fund because it is a permanent extraction and not a renewable source. The earnings from the investment go to the earnings reserve and are spendable. Governor Otter asked if any part of the royalty would be required for the preparation of that extraction. Ms. Opp stated the lease fee itself, on the ground, would go into the earnings reserve account as renewable, but the royalty on the extraction would go to the permanent fund. Governor Otter asked about associated costs. Ms. Opp stated the Department would typically bond based on the activity.

Deputy Director Opp directed the Board's attention to a graphical representation of the scattered endowment land ownership. Governor Otter commented the map shows the challenge in always trying to return four percent. Superintendent Luna stated that same challenge could also be an incentive to get those lands combined into one to generate more revenue.

Deputy Director Opp directed the Board's attention to a list of current land acres by endowment. Governor Otter asked about two categories shown: Agricultural College and the University of Idaho. He noted assets from both institutions were converted into the proposed Magic Valley dairy research facility. He asked if that action changed the character of the asset. Ms. Opp stated there was a combination of agriculture and endowment land, and University of Idaho fee lands that the university owned outright, as opposed to University of Idaho and endowment lands. The Morrill Act still has applicability to the land side of the portfolio in what can be done with those assets, and there is still an obligation to demonstrate whatever portion of the land that the endowment side owns is earning a fair return.

Deputy Director Opp directed the Board's attention to Section 3, Asset Mix. Governor Otter asked if an overlay of the roadless proposal is available. He asked how much endowment land was involved. Ms. Opp stated she would provide that information to the Board members after the meeting along with the overlay map.

Deputy Director Opp directed the Board's attention to the next section, Land Management Philosophy. Governor Otter asked how a return on investments on timberlands is established. Ms. Opp stated the Department is concluding a mass appraisal project that establishes a value of those lands. Through transactions of similar sales, a value can be established, and then a return can be set based on industry or peers. The appraisers have been asked to provide the Department with an indexing methodology to allow staff to move forward to spot check intervening transactions. In moving forward the Department should be able to implement more standard financial measures to measure performance.

Superintendent Luna questioned the method proposed to calculate return on investment. He asked why the increase in the appraisal, or the value of the property, would be included as part of the return on asset. Deputy Director Opp stated the same could be said for a financial portfolio. Interest and dividends are received as an income stream, but when you are benchmarking the value of the portfolio to market, it is not all based in the revenue generating component. Some of it is based on book and value appreciation of stocks and bonds. Later in the document Ms. Opp stated she is advocating other management matrices because it is not the only measure that should be considered.

Deputy Director Opp directed the Board's attention to the appendices and various proposed reports. Superintendent Luna stated the reports found in the appendices would be very useful. He asked how often the reports would be submitted. Ms. Opp stated that is something yet to be set by the Board. Ms. Opp asked for the Board's input on any additional measures that would be helpful. Governor Otter stated one of the measures used in industry is projections. He asked Ms. Opp if she is suggesting that the Department would give the Board a projection by category of what it expects to happen. Ms. Opp stated she is suggesting the Department give the variance analysis report to the Board each year to monitor how the Department is performing against that projection.

Governor Otter asked if the Department depreciates real estate holdings. Ms. Opp stated that is an area the Department has discussed with Controller's office. If you want to benchmark against people in the commercial property business, you have to address the fact that you have to account for things the same way they do. The Department is working on a front-end financial model that would allow it to produce an endowment financial statement that is consistent with how those industries would report. The same thought process applies to timber. In the timber industry you capitalize certain costs associated with silviculture activities. The Department is unable to do that now. It will take some time to get financial statements that have comparability to allow the Department to benchmark against the private sector, but that is a goal.

Governor Otter commented that he is concerned if revenues are sequestered into the permanent endowment fund. He asked how money is secured to repaint or reroof a building. Ms. Opp stated right now that would be done through the appropriations process.

**BOARD ACTION:** A motion was made by Superintendent Luna to not adopt the recommendation as outlined in 1-D, Performance Objectives. Secretary of State Yursa seconded the motion for the purpose of discussion. Controller Jones offered a substitute motion that section 1-D be deferred until the October 18 meeting. Secretary of State Yursa seconded the motion. Governor Otter noted that the second motion will be considered first and will be deferred for one month until the Lewiston site of the Land Board meeting. The motion carried on a vote of 4-0, with Attorney General Wasden being absent for this vote. For the record, Governor Otter considered the adoption of the second

motion a defeat of the first motion. He asked if the maker of the first motion would withdraw that motion. Superintendent Luna agreed and the first motion was withdrawn.

Deputy Director Opp asked the members of the Board if they wished to vote on the first clarification since items were being taken one at a time. Superintendent Luna moved that the Board accept the recommendation as written in 1-A. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 4-0, with Attorney General Wasden being absent for this vote.

Controller Jones moved approval of the asset management plan as presented excepting the previous motion deferring item 1-D for one month. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 4-0, with Attorney General Wasden being absent for this vote.

**9. Endowment Lands Public Education and Communications Plan – Presented by Kathy Opp, Deputy Director**

*DEPARTMENT RECOMMENDATION:* Direct the Department to engage in a professional services agreement under the board's contracting authority to begin a public education program related to endowment lands. The estimated cost for these professional services in any fiscal year shall not exceed \$85,000. Additional projects may be added with prior approval from the board.

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AUDIENCE WITH THE BOARD

- CINDY SCHILLER, Idaho State PTA Legislative Representative
  - MARGARET BIRD, Utah Director of CLASS
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❖ *Ms. Cindy Schiller is the Idaho State PTA legislative representative, the Idaho PTA Children's Land Alliance Supporting Schools (CLASS) representative and Trust Lands Specialist.*

Ms. Schiller stated the Idaho CLASS coalition currently includes the Idaho Association of School Administrators, Idaho School Board Association, the Idaho Education Association and the Idaho Parent-Teacher Association. The Idaho PTA is supportive of the Department of Lands' public education and communication plan. The Idaho PTA's objective is to support the Land Board in their prudent oversight of the state school trust lands and to offer help in this effort.

❖ *Ms. Margaret Bird is the Utah Director of the Children's Land Alliance Supporting Schools (CLASS).*

Ms. Bird stated she appreciates the opportunity to meet with the Idaho Land Board and to highlight the fact that the next CLASS conference, scheduled for summer 2008, will be held in Boise. Education leaders from twenty western states will attend this conference to learn more about school trust lands and how this Board deals with trust lands in Idaho. Ms. Bird commended the Board on how well it has done on the investment of endowment funds in Idaho as compared with other states.

Ms. Bird stated Utah produced a DVD entitled "A Birthright Forever" to help explain to local school boards about the revenue generated from school lands. The DVD will be distributed by education groups throughout the west. As an example, Ms. Bird stated New Mexico and Nebraska will be distributing the DVD to local school boards and legislators. Ms. Bird stated she can not stress enough the importance of providing a uniform message. Ms. Bird noted that the Utah DVD is Utah specific. However, CLASS has another DVD that deals with all of the states. Idaho can request copies of the DVD through the PTA.

Deputy Director Opp stated in order to begin the baseline educational effort the recommendation of the Department is to contract the services of Mike Tracy, Tracy Communications. Governor Otter asked for a timeline. Deputy Director Opp stated that the contract would begin now and continue for one year. We would engage in baseline educational opportunities, do the creative work on the DVD and revise the Department's annual report.

*BOARD ACTION:* A motion was made by Secretary of State Ysursa to move the Department's recommendation. Controller Jones seconded the motion. The motion carried on a vote of 4-0, with Attorney General Wasden being absent for this vote.

At 11:01 a.m., a motion was made by Superintendent Luna to resolve into Executive Session. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 4-0, with Attorney General Wasden being absent for this vote.

- **EXECUTIVE SESSION**

**A. To Consider Personnel Matters** [[Idaho Code § 67-2345\(1\)\(b\)](#)]

**B. To Acquire An Interest in Real Property which is not owned by a Public Agency** [[Idaho Code § 67-2345\(1\)\(c\)](#)]

**C. To Consider Records that are Exempt from Disclosure** [[Idaho Code § 67-2345\(1\)\(d\)](#)]

**D. To Consider and Advise Its Legal Representatives in Pending Litigation or Where There is a General Public Awareness of Probable Litigation** [[Idaho Code § 67-2345\(1\)\(f\)](#)]

At 11:10 a.m. a motion was made by Controller Jones to resolve into regular session. Superintendent Luna seconded the motion. The motion carried on a vote of 4-0, with Attorney General Wasden being absent for this vote.

### **ACTION TAKEN ON ITEM NOT ON THE AGENDA**

Upon return to regular session, the Board took action on an item not on the agenda.

*RECOMMENDATION:* Deputy Attorney General Jeremy Chou recommended that the Board accept the full settlement of the State versus Stimson and Babbitt case in the amount of \$1.5 million and that the Board allow the Attorney General's office to pursue appropriate actions to resolve the litigation.

*BOARD ACTION:* A motion was made by Superintendent Luna to move the recommendation of Deputy Attorney General Chou. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 4-0, with Attorney General Wasden being absent for this vote.

There being no further business to come before the Board, at 11:12 a.m. a motion was made by Secretary of State Ysursa to adjourn. Superintendent Luna seconded the motion. The motion carried on a vote of 4-0, with Attorney General Wasden being absent for this vote. Meeting adjourned.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ C. L. "Butch" Otter

President, State Board of Land Commissioners and  
Governor of the State of Idaho

/s/ Ben Ysursa

Ben Ysursa  
Secretary of State

/s/ George B. Bacon

George B. Bacon  
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the October 18, 2007 regular Land Board meeting.